

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexandra Holmstrom-Smith	Team: Team # 1	CCRB Case #: 200906048	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/18/2009 1:00 PM	Location of Incident: lobby of § 87(2)(b)	Precinct: 23	18 Mo. SOL 10/18/2010	EO SOL 10/18/2010	
Date/Time CV Reported Tue, 04/21/2009 9:57 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/21/2009 9:57 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Erika Espaillat	22423	946685	PSA 5
2. POM Orvin Feliciano	22257	942855	PSA 5
3. POM Jose Collazo	23740	945602	PSA 5

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Reilly	20278	947386	PSA 9

Officer(s)	Allegation	Investigator Recommendation
A.POF Erika Espaillat	Abuse: PO Erika Espaillat questioned § 87(2)(b)	§ 87(2)(b)
B.POM Orvin Feliciano	Abuse: PO Orvin Feliciano questioned § 87(2)(b)	§ 87(2)(b)
C.POM Jose Collazo	Abuse: PO Jose Collazo questioned § 87(2)(b)	§ 87(2)(b)
D.POF Erika Espaillat	Discourtesy: PO Erika Espaillat spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
E.POM Orvin Feliciano	Discourtesy: PO Orvin Feliciano spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
F.POM Orvin Feliciano	Abuse: PO Orvin Feliciano threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
G.POM Jose Collazo	Discourtesy: PO Jose Collazo spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)
H.POF Erika Espaillat	Abuse: PO Erika Espaillat issued a summons to § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 18, 2009, § 87(2)(b) was entering his apartment building, located at § 87(2)(b) in Manhattan, when he encountered PO Erika Espaillat, PO Orvin Feliciano, PO Jose Collazo, and PO Brian Reilly, all of PSA5, in the lobby. The following allegations resulted:

- **Allegation A – Abuse of Authority:** PO Erika Espaillat questioned § 87(2)(b)
- **Allegation B – Abuse of Authority:** PO Orvin Feliciano questioned § 87(2)(b)
- **Allegation C – Abuse of Authority:** PO Jose Collazo questioned § 87(2)(b), § 87(2)(b), § 87(2)(b)
- **Allegation D – Discourtesy:** PO Erika Espaillat spoke discourteously and/or rudely to § 87(2)(b)
- **Allegation E – Discourtesy:** PO Orvin Feliciano spoke discourteously and/or rudely to § 87(2)(b)
- **Allegation F – Abuse of Authority:** PO Orvin Feliciano threatened § 87(2)(b) with the use of force.
- **Allegation G – Discourtesy:** PO Jose Collazo spoke discourteously and/or rudely to § 87(2)(b), § 87(2)(b), § 87(2)(g)
- **Allegation H – Abuse of Authority:** PO Erika Espaillat issued a retaliatory summons to § 87(2)(b), § 87(2)(b), § 87(2)(g)

Mediation was offered to the complainant but he chose to have his complaint investigated.

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) made his initial complaint on April 21, 2009 (encl. 4b) and was interviewed at the CCRB on May 11, 2009 (encl. 5a-d). On April 18, 2009, § 87(2)(b) went to an event called “Street Play” in Jefferson Park. The event was sponsored by the Parks Department and other organizations. § 87(2)(b) belongs to the § 87(2)(b), and his team was invited to do a stickball clinic for kids. § 87(2)(b) was wearing sweatpants and a tee-shirt with the name of his stickball team on it, which is “Clean Machine.” § 87(2)(b) did not have his keys or wallet with him because he had been afraid that they would fall out of his pockets or get lost at the event. He did not have a bag with him, but he was carrying a pink Spalding stickball, which was oval-shaped and a little bit smaller than a tennis ball. § 87(2)(b) arrived at the event around 9:00 a.m. After leaving the event around 12:45 p.m., § 87(2)(b) walked directly to the McDonalds at 110th Street and 3rd Avenue for approximately five minutes, and came out with a bag of food. He then walked directly home without pausing to speak with anyone. By the time he got to his building, it was approximately 1:00 p.m. As he approached his building, he saw that there were

approximately 5-6 uniformed police officers in the lobby. § 87(2)(b) did not say anything when he noticed the officers' presence. § 87(2)(b) did not recall any other civilians being present at this time.

§ 87(2)(b) knocked on the window portion of the door without saying anything. One of the officers § 87(2)(b) believed it was PO Espailat) opened the door, and § 87(2)(b) entered the lobby and walked a couple of steps. Inside the lobby were PO Espailat, PO Feliciano, PO Collazo, PO Reilly, and two unidentified officers. PO Espailat immediately asked § 87(2)(b) if he lived in the building. § 87(2)(b) said that he did. PO Espailat asked him if he had identification, and he said that he did not have his wallet, keys, or ID because he had just come from a sports event and told the officers about the stickball clinic. PO Espailat continued to ask him why he did not have his wallet, where were his keys, and similar questions. She asked for his name, full address and date of birth. PO Espailat was the officer who was mainly talking at this point. She said, "Even if you have to go outside and paste the ID on your forehead, we suggest you do that." § 87(2)(b) later said that PO Espailat said, "Put a fucking ID on your forehead." The officers asked what apartment he lived in, and he told them. § 87(2)(b) said, "You know this is the second time I'm being stopped. I was arrested before." After this comment, the officers appeared to get very agitated and angry. § 87(2)(b) stated that unspecified officers made numerous statements including, "Shut the fuck up," "Stay right there," "Stay still," "Why the fuck don't you have your keys?" and similar comments. § 87(2)(b) later said that the only specific officers that he could remember using profanity were PO Espailat, PO Feliciano, and an officer identified through investigation as PO Collazo, who was described as having a tattoo on his neck. PO Espailat said, "Shut the fuck up," during the incident, but PO Feliciano used the most profanity. PO Feliciano also said to § 87(2)(b) "I'll fuck you up," and, "You need to get kicked in your ass." § 87(2)(b) later said that PO Feliciano responded to § 87(2)(b)'s statement that he had been stopped before by saying, "Shut the fuck up. We don't give a fuck. Shut the fuck up. Stand still." PO Feliciano put his hand close to § 87(2)(b)'s face and waved his finger at him. § 87(2)(b) later said at an unspecified time, unspecified officers said, "Get against the fucking wall," and "Don't move your fucking ass." § 87(2)(b) stated that he was not saying anything to the officers while they were telling him to "shut the fuck up," so there did not appear to be any reason for these comments.

The officers eventually decided to send one officer upstairs to confirm that § 87(2)(b) lived in the building. § 87(2)(b) stayed downstairs in the lobby with the rest of the officers. During this time, § 87(2)(b) was standing against the wall. Approximately 2-3 minutes after entering the building, § 87(2)(b) noticed that one of his neighbors was standing by the window watching the interaction. He was present while the officers were using profanity. At the time of his interview § 87(2)(b) did not know this neighbor's name, but he subsequently left a message on the undersigned's answering machine identifying this individual as § 87(2)(b) of apartment § 87(2)(b). Other residents walked in and out of the lobby.

The officer who had gone upstairs returned, and § 87(2)(b) was later informed that he had spoken with § 87(2)(b)'s daughter, who confirmed that he lived there. An officer identified through investigation as PO Collazo (described by § 87(2)(b) as having a tattoo on his neck) made a call over a radio with § 87(2)(b)'s name and date of birth, and § 87(2)(b) assumed that he was checking his record. § 87(2)(b) was standing with his body leaning against the wall and he rocked forward and backward with his body bouncing against the wall while keeping his feet in place. He said he may have been doing this because he was nervous. PO Collazo stated to § 87(2)(b) "Do you need a fix?" implying that § 87(2)(b) wanted drugs. § 87(2)(b) looked at him and continued to lean against the wall without saying anything. § 87(2)(b) later described this interaction by stating that PO Collazo said, "Do you need a fix? You need to get high? Why the fuck are you moving like that? Are you nervous?" § 87(2)(b) later said that the officer's words were, "Are you fucking nervous?" "Can you fucking stay still?" After a few minutes, the voice on the other end of the police radio stated that § 87(2)(b) had a clean record. § 87(2)(b) then asked PO Espailat, "Are you done with me?" PO Espailat instructed him to wait. PO Feliciano instructed

PO Espaillat to issue § 87(2)(b) a summons. PO Espaillat then issued him a summons for disorderly conduct.

Attempts to Contact Civilians:

§ 87(2)(b) identified the neighbor who witnessed this incident as § 87(2)(b) of Apt. § 87(2)(b). On June 30, 2009, the undersigned contacted § 87(2)(b) who denied having ever observed police officers speaking with civilians in the lobby of his building.

NYPD Statements:

Subject Officer: PO ERIKA ESPAILLAT

- § 87(2)(b) *Hispanic female, 5'1", 150 pounds, black hair, brown eyes.*
- *On April 18, 2009, PO Espaillat worked a tour from 10:30 a.m. to 7:05 p.m. She was assigned to foot post # § 87(2)(b) which covers the § 87(2)(b) housing development, between § 87(2)(b) § 87(2)(b) between Park Avenue and 5th Avenue. Her partner was PO Jose Collazo. She was in uniform and was not assigned a vehicle.*

Memo Book

PO Espaillat made a number of memo book entries for this incident (encl. 6c, 6e). At 12:50 p.m., she wrote "75V @ § 87(2)(b)", meaning that she was doing a vertical patrol at that location. At 12:55 p.m., she indicated that there was one male stopped inside that location. At 1:00 p.m., she wrote "96X1 by me," meaning that she had issued one summons. On the back of the page, she wrote § 87(2)(b)'s name and date of birth and that the summons was for disorderly conduct; specifically, for disobeying lawful orders.

Summons

The summons issued by PO Espaillat (encl. 6g) confirms the above information. The charge is listed as disorderly conduct subsection 2B.

CCRB Testimony

PO Espaillat was interviewed at the CCRB on June 25, 2009 (encl. 6h-j). On April 18, 2009, PO Espaillat, PO Collazo, PO Feliciano, and PO Reilly arrived at § 87(2)(b). They dispersed a crowd in front of the building and then entered to conduct a vertical patrol. PO Espaillat was waiting for the elevator and had been in the lobby for approximately ten minutes when § 87(2)(b) entered the building without a key. (The doors were unlocked, so § 87(2)(b) just entered). According to PO Espaillat, "That gave me the reason to stop him." PO Espaillat later explained that if a person enters a NYCHA building and does not have a key or anything else that would make the officers believe that he or she lives there, the officers have the right to question this person. § 87(2)(b) was wearing a black tank top and black sweatpants and was carrying a bag from McDonald's. PO Espaillat suspected § 87(2)(b) of trespassing because he entered without a key, but she did not suspect him of having committed any other crime.

PO Espaillat asked, "Excuse me sir, do you live in this building?" § 87(2)(b) stated that he did and provided his apartment number at her request (# § 87(2)(b)). PO Espaillat later added that § 87(2)(b) had indicated his frustration at her question by saying, "There we go." PO Espaillat asked him for ID. § 87(2)(b) stated that he did not have his ID and does not carry one. PO Espaillat told § 87(2)(b) that he should carry ID because he lives in a NYCHA building. (PO Espaillat did not recall the exact words she used to explain this to § 87(2)(b)). Although PO Espaillat mentioned that § 87(2)(b) appeared nervous when speaking with her, she stated that she did not have any additional suspicions about him having committed a crime after speaking with him.

PO Espaillat asked § 87(2)(b) who was in the apartment who could verify that he lived there. He stated that his niece was probably there. PO Espaillat informed § 87(2)(b) that PO

Collazo would be going upstairs to speak with his niece to verify that he lived there. PO Collazo then went upstairs. In the meantime, because they were standing in the middle of the lobby, PO Espaillat asked § 87(2)(b) to “Please stand” to the side so that they did not block traffic. No other officers gave § 87(2)(b) any instructions at this time. § 87(2)(b) stood to the side and put his hands in his pockets. § 87(2)(b) did not have anything in his hands apart from the McDonald’s bag, and PO Espaillat did not recall whether he put this down). PO Espaillat asked him to take his hands out of his pockets. PO Espaillat initially said that § 87(2)(b) began yelling—either at the point when she asked him to wait while her partner went upstairs—or after she asked him to take his hands out of his pockets. § 87(2)(b) began yelling and cursing. He was saying, “This is bullshit. I shouldn’t be stopped where I live.” However, she later said that when she asked § 87(2)(b) to take his hands out of his pockets he only responded, “Why?” PO Espaillat explained that she wanted him to take his hands out of his pockets for safety reasons, he said, “No.” He then continued to put his hands in his pockets during this interaction, and PO Espaillat again asked him to take them out. This back and forth happened more than twice.

PO Espaillat asked § 87(2)(b) multiple times why he did not carry ID. § 87(2)(b) only answered that he does not carry ID, and he never provided an explanation. While this conversation was going on, § 87(2)(b) repeatedly bounced a blue rubber ball. According to PO Espaillat, this behavior was very disrespectful. She later stated that she found the bouncing ball to be distracting while she was trying to speak to § 87(2)(b). PO Espaillat asked him to “Please stop.” PO Feliciano then asked § 87(2)(b) to “please stop,” saying, “She gave you a lawful order. You have to obey her orders.” After this, § 87(2)(b) stopped bouncing the ball and did not do it again. PO Espaillat decided to issue § 87(2)(b) a summons for disorderly conduct. She stated that the reason for this was that § 87(2)(b) continued to be loud, because he had not complied with her instructions to keep his hands out of his pockets and to stop bouncing the ball, and because she had to repeat these instructions more than twice. Before issuing the summons, PO Espaillat called over the radio to have “Central” check § 87(2)(b)’s record and make sure that he did not have any warrants, which he did not.

PO Espaillat did not recall using profanity towards § 87(2)(b). She did not hear any officers using profanity towards § 87(2)(b). PO Espaillat denied saying, “Even if you have to go outside and paste your ID to your forehead, we suggest that you do that.”

Subject Officer: PO ORVIN FELICIANO

- § 87(2)(b) *Hispanic male, 5’7”, 160 pounds, black hair, brown eyes.*
- *On April 18, 2009, PO Feliciano worked a tour from 10:30 a.m. to 7:05 p.m. He was assigned to foot post# § 87(2)(b) in the § 87(2)(b) housing development, and his partner was PO Reilly. He was in uniform and was not assigned a vehicle.*

Memo Book

PO Feliciano made one memo book entry for this incident (encl. 7a-c). At 12:55 p.m., he indicated that there was one male stopped at § 87(2)(b). PO Feliciano noted that the person stopped was § 87(2)(b) born § 87(2)(b).

CCRB Testimony

PO Feliciano was interviewed at the CCRB on June 26, 2009 (encl. 7d-f). His statement was consistent with PO Espaillat’s with the following discrepancies and additional information.

PO Feliciano denied having seen § 87(2)(b) before PO Espaillat began speaking with him. § 87(2)(b) appeared to be very upset that he was being asked for his ID. According to PO Feliciano, PO Espaillat told § 87(2)(b) that he was being stopped because it was a “random stop like we do in housing,” so that officers can determine whether people live in the buildings or not and whether they were doing anything unlawful. PO Espaillat attempted to convince § 87(2)(b) that there was nothing personal about it. PO Feliciano stated numerous times that § 87(2)(b) would

not comply with “anything” the officers instructed him to do and that he “wouldn’t listen.” However, he had difficulty articulating what specific directions § 87(2)(b) was not complying with. PO Feliciano did not recall whether § 87(2)(b) refused to show his ID or whether he stated that he did not have any ID with him, nor did PO Feliciano remember anything that § 87(2)(b) said about this. PO Feliciano did not recall whether § 87(2)(b) gave PO Espailat his name or whether he answered PO Espailat’s question as to whether he lived in the building.

Subject Officer: PO JOSE COLLAZO

- § 87(2)(b) *Hispanic male, 5’9”, 140 pounds, black hair, brown eyes.*
- *On April 18, 2009, PO Collazo worked a tour from 10:30 a.m. to 7:05 p.m. His partner was PO Espailat, and he was assigned to foot post #§ 87(2)(b). PO Collazo was in uniform and was not assigned a vehicle.*

Memo Book

PO Collazo did not make a memo book entry specifically for this incident (encl. 8a-c). At 12:50 p.m. he indicated that he was doing a vertical patrol at § 87(2)(b).

CCRB Testimony

PO Collazo’s statement (encl. 8d-f) was consistent with PO Espailat’s, with the following discrepancies and additional information. PO Collazo and PO Espailat were standing near the front door. § 87(2)(b) opened the front door and walked into the building without using a key. PO Collazo stated that he was certain that the locks on the door were broken at this time. According to PO Collazo, PO Espailat stopped and asked whether he lived in the building. § 87(2)(b) said he did not, but said he was staying with his niece. § 87(2)(b) began asking, “Why are you guys harassing me?” and PO Collazo told him, “Sir, it’s just a formality. We just want to know if you live in the building. We’ve never seen you before. You’ll be on your way once you’re verified.” § 87(2)(b) eventually provided the apartment number of his niece (#§ 87(2)(b)) upon PO Collazo’s request. PO Collazo decided to go upstairs to verify § 87(2)(b)’s identity with her, which he said is a standard procedure. When asked whether in his understanding of the situation, was § 87(2)(b) free to leave while PO Collazo went upstairs to speak to the niece, PO Collazo stated, “No. He has to stay downstairs with the other officers until we were able to verify whether he lives there.” When asked to explain why this was the case, PO Collazo said, “Well, for example, if there is no one there to verify him, then he would be under arrest for criminal trespass.” PO Collazo was asked whether he or any other officers explained to § 87(2)(b) that he had to wait with the other officers while PO Collazo went upstairs, PO Collazo said that he told § 87(2)(b) that he was going to go upstairs to verify with his niece, and that he would be “on [his] way” after this.

When asked whether he suspected § 87(2)(b) of a crime, PO Collazo said that he (and the other officers) suspected § 87(2)(b) of criminal trespass. PO Collazo explained that when people usually come into the building without using a key, they usually try to verify that they live there. PO Collazo added that he had never seen § 87(2)(b) before this date. PO Collazo stated that he has worked in the area for approximately a year and a half and stated that he knows who lives in those buildings. PO Collazo could not estimate how many apartments were in the building, but said that there are 19 floors. When asked again whether he thought he could recognize the faces of everyone who lived in the building, PO Collazo then said that he would recognize “a fair amount.” PO Collazo stated that he suspected § 87(2)(b) of criminal trespass both because he entered the building without a key and because he did not recognize him.

After confirming that § 87(2)(b) was expected by his niece upstairs, PO Collazo returned to find PO Espailat issuing § 87(2)(b) a summons for disorderly conduct. § 87(2)(b) appeared

angry at this time but was not being disorderly. PO Collazo stated that he was the only officer present for the incident who had a tattoo on his neck.

NYPD Documents

Roll Call

The PSA5 roll call (encl. 10a) for April 18, 2009, tour 2, confirms that PO Espaillat, PO Feliciano, and PO Collazo were working.

SPRINT

The Sprint Print-Out (encl. 9a) confirms that § 87(2)(b) was stopped at 12:59 p.m. and was issued a summons.

§ 87(2)(b), § 87(2)(a) 160.50

■ [REDACTED]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 9, 2010 with regard to the incident (encl. 14d).

§ 87(2)(b)

■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]

Civilian's CCRB History

- § 87(2)(b) has filed the following CCRB complaints:
 - On September 2, 1988, § 87(2)(b) filed CCRB case # 8803107, alleging that an unidentified officer spoke discourteously to him. This case was closed as Complainant Uncooperative.
 - On February 7, 2009, § 87(2)(b) filed CCRB case # 200901925, alleging that PO Nelly Guillermo and PO Kristin Beissel stopped and questioned him, and that PO Orvin Feliciano threatened him with the use of force. This case was investigated by the undersigned and has also been submitted to the Board for review.

Subject Officers CCRB History

- PO Espaillat has no substantiated CCRB allegations in her 1-year tenure with the NYPD (encl. 2a).
- PO Feliciano has no substantiated CCRB allegations in his 3-year tenure with the NYPD (encl. 2b).
- PO Collazo has no substantiated CCRB allegations in his 2-year tenure with the NYPD (encl. 2c).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(b) identified PO Espaillat and PO Feliciano by their badges. PO Collazo was identified because § 87(2)(b) described the officer who said, “Why the fuck are you moving like that,” and “Are you fucking nervous?” as having a tattoo on his neck. PO Collazo has a tattoo on his neck and stated that he was the only officer present for this incident with a tattoo in this location. All the officers interviewed acknowledged interacting with § 87(2)(b). The question allegation is being pled against all three officers because they all participated in the incident.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Erika Espaillat questioned § 87(2)(b)

Allegation B – Abuse of Authority: PO Orvin Feliciano questioned § 87(2)(b)

Allegation C – Abuse of Authority: PO Jose Collazo questioned § 87(2)(b)

According to all statements, the officers’ initial questioning of § 87(2)(b) was prompted by him entering the building without a key. According to PO Espaillat and PO Collazo’s statements, the door was unlocked and possibly broken, so a key was not necessary to open the door. According her statement, PO Espaillat did not suspect him of any other crime. None of the officers interviewed mentioned any additional factors that raised their suspicion about § 87(2)(b) apart from his keyless entry to the building, which they all acknowledged was necessary because the door lock was broken.

§ 87(2)(b), § 87(2)(g) According to Barry Kamins’ *New York Search and Seizure*, the standard set in *People v. DeBour* defines the common-law right to inquire as a line of questioning by a police officer that “focuses on the citizen as a suspect” in an investigation (encl. 1c). According to all accounts, the first question PO Espaillat asked § 87(2)(b) was whether he lived in the building, which was soon followed by a request for his identification. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

(encl. 1d-e). In *People v. Holland*, the court found that, “Even in city-owned buildings, a person’s mere presence is insufficient. Additional factors are necessary before officers may have an ‘objective, credible reason’ to approach and request information,” (encl. 1h). For example, in *People v. Taylor*, the court found that it was improper for officers to conduct a common-law inquiry when a defendant had exited the elevator in his building and was approaching someone he knew in the lobby (encl. 1e) § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation D – Discourtesy: PO Erika Espaillat spoke discourteously and/or rudely to

§ 87(2)(b)

Allegation E – Discourtesy: PO Orvin Feliciano spoke discourteously and/or rudely to

§ 87(2)(b)

Allegation F – Abuse of Authority: PO Orvin Feliciano threatened § 87(2)(b) with the use of force.

Allegation G – Discourtesy: PO Jose Collazo spoke discourteously and/or rudely to § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that PO Espaillat said, “Put a fucking ID on your forehead,” and “Shut the fuck up.” He alleged that PO Feliciano said, “Shut the fuck up. We don’t give a fuck,” “I’ll fuck you up,” and “You need to get kicked in your ass.” § 87(2)(b) alleged that PO Collazo said “Why the fuck are you moving like that?” “Are you fucking nervous? Can you fucking stay still?” § 87(2)(b) also made various discourtesy allegations that he attributed to unspecified officers, but he clearly stated that the only officers who used profanity during the incident were PO Espaillat, PO Feliciano, and PO Collazo. None of the officers admitted to these allegations. In

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation H – Abuse of Authority: PO Erika Espaillat issued a retaliatory summons to

§ 87(2)(b)

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

In her interview, PO Espaillat said that she issued the summons because § 87(2)(b) was loud and had not complied with her instructions to keep his hands out of his pockets and stop bouncing his ball. In her memo book (encl. 6e), PO Espaillat wrote that she issued the summons because § 87(2)(b) disobeyed lawful orders. Disorderly conduct subsection 240.20 06 refers to disobeying lawful orders, but it only holds when a person, “Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse” (encl. 1j), which § 87(2)(b) was not doing in this case. On the summons (encl. 6g), PO Espaillat she wrote disorderly conduct subsection 2B, which does not exist. Disorderly conduct 240.20 02 is for making unreasonable noise. However in *NYPD v. Police Officer Michael Edmonds* (encl. 11), the court found that, “The mere fact that a civilian gesticulates with open hands and speaks loudly as he is addressing an officer, without more, does not constitute Disorderly Conduct.” § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Team: _____

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date